

April 11, 2002

BOOTHBAY HARBOR WATER SYSTEM, EAST
BOOTHBAY WATER DISTRICT, AND BOOTHBAY
REGION WATER DISTRICT

ORDER APPROVING
STIPULATION

Petition for Approval of Merger of the Boothbay Harbor
Water System and the East Boothbay Water District into
the Boothbay Region Water District

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

Summary of Order

Through the approval of a Stipulation, we allow the newly-formed Boothbay Region Water District (BRWD) to acquire all of the assets and assume the debts of the Boothbay Harbor Water System (BHWS) and the East Boothbay Water District (EBWD), and approve the rates and terms and conditions for the new District. We also approve rates for the EBWD and the BHWS to be effective for the period between January 2, 2002 and the date the utilities' assets are transferred to the BRWD.

Background

On December 10, 2001, the Boothbay Harbor Water System, the East Boothbay Water District and the Boothbay Region Water District filed with the Commission their joint petition, pursuant to 35-A M.R.S.A. §§ 708, 1101, 1104, and 2102, for approval to transfer of the property, rights and obligations of the BHWS and EBWD to the BRWD. The petition also included rate schedules and terms and conditions for the new district. In 2001, the Maine Legislature enacted a bill entitled "An Act to Create the Boothbay Region Water District" (Act). P.&S.L., ch. 15. Pursuant to the Act, the BRWD is authorized to acquire the plants, properties, franchises, rights and privileges owned by the Town of Boothbay Harbor (Town),¹ the Boothbay Harbor Water System and the East Boothbay Water District. The consideration for the transaction is the assumption by the BRWD of all the outstanding water related debts, obligations and liabilities of the Town (\$4,929,813) and the EBWD (\$224,844). This includes, without limitation, the assumption of any outstanding water-related notes or bonds of the Town, the BHWS and the EBWD that are due on or after the date of transfer.

The Act also requires the Town and the EBWD to convey to the BRWD by appropriate instruments of conveyance all, and not less than all, of their plants,

¹ The Act refers to both the Town of Boothbay Harbor and the Boothbay Harbor Water System. The Town of Boothbay Harbor owns the Boothbay Harbor Water System.

properties, assets, franchises, rights and privileges, including, without limitation, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, apparatus and appliances used or useful in supplying water for domestic, commercial, industrial, and municipal purposes. The sale and transfer by the Town and the EBWD to the BRWD is subject to Commission approval as may be required by Title 35-A. The sale, disposition, or encumbrance of property that is necessary or useful in the performance of a utility's duties to the public and the authority to abandon service to the public are governed by Title 35-A §§ 1101-1104 and require Commission approval.

The United States Department of Agriculture and the Maine Municipal Bond Bank have consented to the assumption of the EBWD and BHWS debt by the BRWD. As required by section 8 of the Act, the legal voters of the Towns of Boothbay and Boothbay Harbor accepted the provisions of the Act at special municipal elections held on May 7, 2001.

Subsequent to the filing of the December 10, 2001 petition, there have been several discussions among the Applicants, the Staff, and the Public Advocate. At the request of the Staff and Public Advocate, further information in support of the petition has been filed. In addition, the Applicants held a public meeting to explain the proposed rate schedules and provided individual notice to commercial customers who would experience an increase in rates.

On April 10, 2002, the Applicants filed a Stipulation executed by the Applicants and the Public Advocate. Through the Stipulation, the parties agreed that all approvals should be granted necessary for BRWD to acquire the assets of the BHWS and EBWD, for BHWS and EBWD to transfer their assets, and for BHWS and EBWD to discontinue service in their respective service territories upon the transfer of assets and commencement of service by BRWD.

The stipulating parties also agreed that the BRWD rate schedules and terms and conditions attached to the Stipulation should become effective upon commencement of service by the new District and that the attached rate schedules for BHWS and EBWD, which contain the same rates as the new District, should be effective as of January 2, 2002. This will allow all customers of the new District to pay rates that will remain constant throughout the year.

The stipulated rate schedules provide for an abatement of a portion of the increase in bills for customers who will experience a substantial increase under the new rate schedules. The purpose of this provision is to minimize rate shock for those customers. The abatement is not available to other customers who will experience less significant increases.

In reviewing a stipulation, we consider whether the parties joining the stipulation represent a sufficiently broad spectrum of interests, whether the process leading to the stipulation was fair, and whether the stipulated result is reasonable, in the public

interest, and not contrary to legislative mandate. See e.g., *Consumers Maine Water Company*, Docket No. 96-739 at 2 (July 3, 1997). The Public Advocate represents the using and consuming public and we thus conclude that a sufficiently broad spectrum of interests has joined the Stipulation in this case. Additionally, we conclude that the process was fair in that all interested parties had a reasonable opportunity to participate. Finally, we have reviewed the Stipulation and materials filed in support of the petition, and conclude that the combination of BHWS and EBWD into a single district is in the public interest and that the proposed rates are just and reasonable.

The EBWD and the BHWS have operated their water systems independently for many years. Each system has its own schedule of rates. Because the two systems can be physically separated, it is possible that separate rate schedules could be requested or imposed in future years. We will require the BRWD to maintain its property records with detail sufficient to permit the property accounts to be accurately separated, by water system, should such a proposal be made.

Accordingly, we

O R D E R

1. That the East Boothbay Water District and the Boothbay Harbor Water System are authorized to sell, transfer, and convey to the Boothbay Region Water District by an appropriate instrument or instruments of conveyance all, and not less than all, of their plants, properties, assets, franchises, rights, and privileges, including, without limitations, lands, buildings, waters, water rights, springs, wells, reservoirs, tanks, standpipes, mains, pumps, pipes, machinery, fixtures, hydrants, meters, services, tools, equipment, and appliances used or useful in supplying water for domestic, commercial, industrial, and municipal purposes in consideration of the assumption by the Boothbay Region Water District of all of the outstanding debts, obligations, and liabilities of the East Boothbay Water District and the Boothbay Harbor Water System including, without limitation, the assumption of any outstanding notes or bonds of the East Boothbay Water District and the Boothbay Harbor Water System that are due on or after the date of the transfer;

2. That the Boothbay Region Water District is authorized to purchase and acquire all of said properties and to assume all contracts (1) relating to supplying water; (2) in effect on the date of the transfer between the East Boothbay Water District and any person, firm, or corporation, and (3) in effect on the date of the transfer between the Boothbay Harbor Water System and any person, firm, or corporation;

3. That upon the transfer of the water system assets by the East Boothbay Water District and the Boothbay Harbor Water System to the Boothbay Region Water District, the East Boothbay Water District and the Boothbay Harbor Water System are authorized pursuant to 35-A M.R.S.A. § 1104 to discontinue the service that they are providing to the public in the Towns of Boothbay and Boothbay Harbor, Lincoln County, Maine;

4. That upon the transfer of the water system assets to the Boothbay Region Water District, it shall assume and be responsible for providing water service to the public in the towns of Boothbay and Boothbay Harbor, Lincoln County, Maine;

5. That the Boothbay Harbor Water System shall submit to the Commission a copy of its final balance sheet within 60 days of the date of the sale;

6. That the East Boothbay Water District shall submit to the Commission a copy of its final balance sheet within 60 days of the date of the sale;

7. That the Boothbay Region Water District shall supply the Commission the following within 60 days of the date of the purchase:

a) A copy of the entry on the books of the Boothbay Region Water District, recording the acquisitions; and

b) A copy of the opening balance sheet of the Boothbay Harbor Region Water District the following acquisitions;

8. That the East Boothbay Water District Schedule of Rates, consisting of Sheets 1 through 4, all 2nd Revision, and Sheet 1-A, Original filed on April 10, 2002 is approved to become effective for service rendered on and after January 2, 2002;

9. That the Boothbay Harbor Water System Schedule of Rates, consisting of Sheet 4, 7th Revision, filed on April 10, 2002 is approved to become effective for service rendered on and after January 2, 2002;

10. That until further order of this Commission, the Boothbay Region Water District shall provide water service in the area now being served by the East Boothbay Water District and the Boothbay Harbor Water System pursuant to and in accordance with the filed tariffs, including terms and conditions of those utilities; provided, however, that the Boothbay Region Water District, shall, upon transfer of the water system assets to it, file said tariffs, including terms and conditions, with the Commission under its own name;

11. That the Boothbay Region Water District shall maintain its property records with detail sufficient to permit the property accounts to be accurately separated for the East Boothbay system and for the Boothbay Harbor system. Those utility records shall include utility plant accounts, accumulated depreciation and amortization, utility plant acquisition adjustments, advances for construction, contributions in aid of construction, and related accounts; and

12. That the Stipulation filed on April 10, 2002 and attached to this Order is hereby accepted and incorporated into this Order.

Dated at Augusta, Maine, this 11th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
 Diamond

COMMISSIONER ABSENT: Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.